

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rebecca Jacobson	Team: Squad #6	CCRB Case #: 201607750	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/10/2016 4:00 PM	Location of Incident: Behind § 87(2)(b)	Precinct: 45	18 Mo. SOL 3/10/2018	EO SOL 3/10/2018	
Date/Time CV Reported Sat, 09/10/2016 4:33 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 09/10/2016 4:33 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Derrick Kreckmann	26021	954032	PSA 8

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrew Lombardi	22123	954076	PSA 8

Officer(s)	Allegation	Investigator Recommendation
A.POM Derrick Kreckmann	Force: Police Officer Derrick Kreckmann used physical force against § 87(2)(b)	
B.POM Derrick Kreckmann	Discourtesy: Police Officer Derrick Kreckmann spoke discourteously to § 87(2)(b)	
C.POM Derrick Kreckmann	Abuse: Police Officer Derrick Kreckmann frisked § 87(2)(b)	
D.POM Derrick Kreckmann	Abuse: Police Officer Derrick Kreckmann searched § 87(2)(b)'s bag.	
E.POM Derrick Kreckmann	Abuse: Police Officer Derrick Kreckmann damaged § 87(2)(b)'s property.	
F.POM Derrick Kreckmann	Discourtesy: Police Officer Derrick Kreckmann spoke discourteously to § 87(2)(b)	
G.POM Derrick Kreckmann	Discourtesy: Police Officer Derrick Kreckmann spoke discourteously to § 87(2)(b)	
H.POM Derrick Kreckmann	Discourtesy: Police Officer Derrick Kreckmann spoke discourteously to § 87(2)(b)	
I.POM Derrick Kreckmann	Off. Language: Derrick Kreckmann made offensive remarks to § 87(2)(b)	
J.POM Derrick Kreckmann	Abuse: Police Officer Derrick Kreckmann threatened to arrest § 87(2)(b)	
K.POM Derrick Kreckmann	Force: Police Officer Derrick Kreckmann used physical force against § 87(2)(b)	

Case Summary

On September 10, 2016, § 87(2)(b) filed this complaint with the CCRB via the call processing system.

On September 10, 2016, at approximately 4:00 p.m., behind § 87(2)(b) in the Bronx, § 87(2)(b) was stopped by PO Derrick Kreckmann of Public Service Area 8, after PO Kreckmann observed him littering. PO Kreckmann pushed § 87(2)(b) against a gate and asked him, “Why are you being an asshole?” (**Allegations A and B**). PO Kreckmann frisked § 87(2)(b) and then opened a shopping bag § 87(2)(b) had with him, removed a Starburst candy, unwrapped it, and ate it (**Allegations C, D and E**). PO Kreckmann then told § 87(2)(b) to leave.

§ 87(2)(b) who lives on the third floor of § 87(2)(b) called up to his mother, § 87(2)(b) who came outside. § 87(2)(b) and § 87(2)(b) approached PO Kreckmann and § 87(2)(b) asked him what the problem was. PO Kreckmann responded to her, “Your son is being an asshole.” (**Allegation F**). § 87(2)(b)'s brother, § 87(2)(b) and her daughter, § 87(2)(b) also approached PO Kreckmann while § 87(2)(b) was talking with him. PO Kreckmann asked both § 87(2)(b) and § 87(2)(b) “Who the fuck are you?” PO Kreckmann used various discourtesies while speaking with them, including saying, “That’s why you all live in a shithole,” and referring to § 87(2)(b) as both a “hood rat” and a “bitch.” PO Kreckmann also told § 87(2)(b) that he would lock her up (**Allegation G, H, and I**).

After about a minute of arguing, PO Kreckmann’s partner, PO Andrew Lombardi, walked slightly away from the group with § 87(2)(b) attempting to talk to him about the situation. § 87(2)(b) and § 87(2)(b) began to walk away from PO Kreckmann. PO Kreckmann called out to § 87(2)(b) “Good luck with your mouth kid, try to keep the dicks out of it.” (within **Allegation H**) § 87(2)(b) and § 87(2)(b) ran back over to PO Kreckmann and began arguing with him again. PO Kreckmann told § 87(2)(b) “Watch your mouth bitch.” (within **Allegation H**)

A passer by, § 87(2)(b) was recording the incident on his cell phone. § 87(2)(b) approached PO Kreckmann to get his name and badge on film. Upon approaching him, PO Kreckmann pushed him backwards (**Allegation J**).

As noted above, there is video footage for this case (BR 01).

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) both rejected mediation because they did not want to see the officer again.
- On December 6, 2015, a notice of claim request was sent and will be added to the case file upon receipt.
- On December 7, 2016, a search of the Office of Court Administration revealed that § 87(2)(b) and § 87(2)(b) have no prior criminal convictions. § 87(2)(b) and § 87(2)(b) were not arrested, thus any available NYSID is unknown and their birth dates are unknown, therefore a search for any criminal convictions could not be completed (BR 02).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint for all civilians involved in the incident (BR 03).
- PO Kreckmann has been a member of the NYPD for three years and has had 30 prior allegations, involving 14 cases, against him. In case 201405312, two allegations of frisk and of search of person were substantiated with a recommendation of Command Discipline. In case 201601983, an allegation of vehicle search was substantiated with a recommendation of Command Discipline. PO Kreckmann has had five prior discourtesy allegations against him, three of which were closed as unsubstantiated, one of which was closed as unfounded, and one of which was not investigated due to truncating as complainant uncooperative. Since the filing of this complaint, PO Kreckmann has had one additional complaint filed against him, case 201609514, involving two allegations of discourtesy. Overall, PO Kreckmann has had 16 complaints filed against him. § 87(2)(g)

Findings and Recommendations

Allegations not pleaded

- **Stop:** By his own account, § 87(2)(b) was littering at the onset of the incident. Therefore, no stop allegation has been pleaded in regards.

Allegation A -Abuse of Authority: Police Officer Derrick Kreckmann used physical force against § 87(2)(b)

§ 87(2)(b) stated that after PO Kreckmann commented to him about littering and thanked him for picking up the wrappers, § 87(2)(b) told him, “Whatever.” Upon hearing this, PO Kreckmann ran in front of § 87(2)(b) and pushed him on the chest with both hands, pushing him against a fence (BR 04).

According to PO Kreckmann, he thanked § 87(2)(b) for picking up the trash and § 87(2)(b) responded, “Fuck you. Suck my dick faggot.” PO Kreckmann then told § 87(2)(b) to stop. § 87(2)(b) kept walking so PO Kreckmann put his hand on § 87(2)(b)'s chest to stop him. They were about 5-10 feet away from a fence and PO Kreckmann then held § 87(2)(b) by the arm and escorted him over to the fence (BR 05).

PO Lombardi stated that PO Kreckmann told § 87(2)(b) to stop littering and thanked him. When § 87(2)(b) walked by where the officers were standing, he told them, “Fuck you.” Upon hearing this, PO Kreckmann walked over to stop § 87(2)(b) who stopped walking. PO Lombardi described § 87(2)(b) as being physically compliant with being stopped and denied that PO Kreckmann had to touch § 87(2)(b) to stop him. § 87(2)(b) was leaning against a fence while the officers were talking with him, but PO Lombardi denied seeing PO Kreckmann push § 87(2)(b) against a fence at any point (BR 06).

According to Patrol Guide 221-01, officers may use force to ensure the safety of a life or when it is reasonable to place a person in custody or to prevent escape from custody (BR 07).

§ 87(2)(b), § 87(2)(g)

Allegation B – Discourtesy: Police Officer Derrick Kreckmann spoke discourteously to

§ 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Derrick Kreckmann frisked

§ 87(2)(b)

Allegation D – Abuse of Authority: Police Officer Derrick Kreckmann searched

§ 87(2)(b)

§ 87(2)(b)'s bag.

Allegation E – Abuse of Authority: Police Officer Derrick Kreckmann damaged

§ 87(2)(b)

§ 87(2)(b)'s property.

According to § 87(2)(b) he asked PO Kreckmann why he had pushed him and PO Kreckmann respond with something along the lines of “Why are you being a smartass?” or “Why are you being an asshole?” PO Kreckmann and § 87(2)(b) then argued back and forth for a minute, PO Kreckmann asked § 87(2)(b) how old he was and § 87(2)(b) informed him he was 14. § 87(2)(b) was carrying a shopping bag with Starbursts in it (these were the wrappers he had been dropping). PO Kreckmann took the shopping bag and looked inside of it. He then removed a Starburst, ate it, gave the bag back to § 87(2)(b) and told him to leave.

PO Kreckmann stated that he asked § 87(2)(b) for an ID and when he did not produce one, PO Kreckmann patted him down on his pockets. PO Kreckmann did this for the sole purpose of obtaining his ID and did not suspect that § 87(2)(b) had any weapons on him or was armed. § 87(2)(b) was carrying a plastic bag with him which PO Kreckmann described as being full of “suckers.” PO Kreckmann and § 87(2)(b) argued, § 87(2)(b) told PO Kreckmann that he was § 87(2)(b) and PO Kreckmann should arrest him. PO Kreckmann responded to him, “You’re

acting like a dipshit, but no should give you a record for that.” PO Kreckmann believed he might have told § 87(2)(b) to stop acting like an “ass” but did not recall the exact words he used, besides the word “dipshit.” They continued arguing and PO Kreckmann took § 87(2)(b)’s bag, opened it, and took out a candy. He unwrapped it and put it in his mouth, placing the wrapper in his pocket while telling § 87(2)(b) “When you eat something, you put the wrapper in your pocket and walk on. You don’t put the wrapper on the ground.” PO Kreckmann did this to demonstrate to § 87(2)(b) the proper way to dispose of garbage. PO Kreckmann then told § 87(2)(b) something along the lines of “Get the hell out of here, time to go home.”

PO Lombardi stated that PO Kreckmann was asking § 87(2)(b) for identification and § 87(2)(b) was responding to him, “Suck my dick, you guys can’t do anything.” PO Lombardi did not remember hearing PO Kreckmann ever ask § 87(2)(b) “Why are you being a smartass?” or “Why are you being an asshole?” PO Lombardi believed that § 87(2)(b) had a bag on him during the stop. He did not believe anything was done to investigate what was in the bag and did not remember PO Kreckmann ever opening or looking in the bag and denied that PO Kreckmann ever ate a piece of § 87(2)(b)’s candy.

An officer must have reasonable suspicion that a suspect is armed to conduct a frisk. *People v. DeBour*, 40 N.Y.2d 210 (N.Y.S. Ct. Of Appeals 1976) (BR 08). A police officer acting on reasonable suspicion that criminal activity is afoot and on an articulable basis to fear for his own safety may intrude upon the person or personal effects of the suspect only to the extent that is actually necessary to protect himself from harm while he conducts the inquiry. *People v. Torres*, 74 N.Y.2d 224 (N.Y. 1989) (BR 09). Patrol Guide section 203-09 states that officers must be courteous and respectful (BR 10). Additionally, part of the mission of the New York City Police Department is to protect the property of fellow citizens and render services with courtesy and civility (Patrol Guide Procedure 200-02) (BR 11).

§ 87(2)(b), § 87(2)(g)
[REDACTED]

[REDACTED]

[REDACTED]

Allegation F – Discourtesy: Police Officer Derrick Kreckmann spoke discourteously to

§ 87(2)(b)

Allegation G – Discourtesy: Police Officer Derrick Kreckmann spoke discourteously to

§ 87(2)(b)

Allegation H – Discourtesy: Police Officer Derrick Kreckmann spoke discourteously to

§ 87(2)(b)

Allegation I – Abuse of Authority: Police Officer Derrick Kreckmann threatened to arrest

§ 87(2)(b)

§ 87(2)(b) stated that after he left PO Kreckmann and PO Lombardi, he got his mother, § 87(2)(b) from their apartment. § 87(2)(b) came outside and § 87(2)(b)'s sister, § 87(2)(b) and his uncle, § 87(2)(b) also came out. § 87(2)(b) and § 87(2)(b) walked over to PO Kreckmann and § 87(2)(b) asked him what the problem was. PO Kreckmann told § 87(2)(b) "You son is an asshole." § 87(2)(b) began trying to speak with PO Kreckmann about the situation and asking why he was talking like that. § 87(2)(b) kept interjecting and arguing with PO Kreckmann, so his mother told him to go inside and allow her to speak with PO Kreckmann by herself. § 87(2)(b) complied with this and was not present for the remainder of the incident.

§ 87(2)(b) stated that § 87(2)(b) called her down and explained what had just transpired between him and PO Kreckmann. § 87(2)(b) approached PO Kreckmann and they discussed what had occurred. During the conversation, PO Kreckmann commented about giving § 87(2)(b) courtesy and not locking § 87(2)(b) up. When § 87(2)(b) asked what he could be locked up for, PO Kreckmann replied, "For being disrespectful, you son is an asshole." § 87(2)(b) and PO Kreckmann continued arguing about the situation, PO Kreckmann commented to her that § 87(2)(b) had been throwing wrappers and told her "That's why you all live in a shithole." § 87(2)(b) did not remember specifically all the other comments PO Kreckmann made, but noted he was cursing throughout their conversation and using the word "asshole" with frequency. After about five minutes, § 87(2)(b) approached and was standing behind § 87(2)(b). § 87(2)(b) asked what was going on and PO Kreckmann responded, "Who the fuck are you?" and instructed her to "mind her own fucking business." § 87(2)(b) stated she could say what she wanted and PO Kreckmann told her he would lock her up instead and called her a "hood rat." § 87(2)(b) also approached them and asked what the problem was. PO Kreckmann also told him, "And who the fuck are you?" (BR 12)

§ 87(2)(b) and § 87(2)(b)'s testimonies were largely consistent with § 87(2)(b)'s (BR 13-14). § 87(2)(b) did not note PO Kreckmann as calling the area a "shithole," but rather noted that he referred to her as a "piece of shit." § 87(2)(b) also stated that PO Kreckmann repeatedly called her a "bitch," and at the end of the incident told her, "Get out of my face, you bitch."

§ 87(2)(b) and § 87(2)(b) were all largely consistent that after arguing with PO Kreckmann for a bit, they began to walk away, with § 87(2)(b) pulling § 87(2)(b) away from the confrontation. As they were walking away, PO Kreckmann called out to § 87(2)(b) that she should "take dicks out of her mouth." § 87(2)(g)

§ 87(2)(b) stated that PO Kreckmann's exact phrasing was "What you need to do is go back to school and take the dick out of your mouth." § 87(2)(b) stated that PO Kreckmann told her, "How about you go back to school?" § 87(2)(b) responded to this, telling PO Kreckmann, "She finished school" and PO Kreckmann then responded, "Well she needs to keep dicks out of her mouth." § 87(2)(b) stated that he was standing a little bit away from § 87(2)(b) and § 87(2)(b) speaking with PO Lombardi about the situation. § 87(2)(b) and § 87(2)(b) were still arguing with PO Kreckmann when he told her, "You need to go back to school and get an education, you need to go back to school and stop acting ghetto and take these dicks out of your mouth." § 87(2)(b) and § 87(2)(b) then started walking away and § 87(2)(b) went to walk away with them. When they were about 15-30 feet from PO Kreckmann, he called out that they needed to go back to school and take their "bum-ass" back to school and said a second time that they needed to "take the dicks out of their mouths."

§ 87(2)(b) was passing by when he observed a confrontation between an officer, PO Kreckmann, and a woman, § 87(2)(b) also observed several other officers and two other civilians. § 87(2)(b) decided to take out his phone so that he could record the incident since PO Kreckmann was yelling at § 87(2)(b). The civilians started walking away. As they were walking away, § 87(2)(b) started to say something to PO Kreckmann and PO Kreckmann cursed at her, telling her something along the lines of "keep dicks out of your mouth." (BR 15)

PO Kreckmann stated that about 15 minutes after he released § 87(2)(b) came down. About a minute later, § 87(2)(b) and § 87(2)(b) came down. PO Kreckmann explained the situation to § 87(2)(b) who was upset but not yelling or using any profanity. PO Kreckmann told § 87(2)(b) that § 87(2)(b) had been acting like a "dipshit" but did not remember if he used the word "asshole," or as noted above, if he used the word "ass." At this time, § 87(2)(b) and § 87(2)(b) were standing about 10-15 feet away. He believed that § 87(2)(b) was quiet at first, but § 87(2)(b) was yelling. They approached PO Kreckmann and he asked § 87(2)(b) who he was. PO Kreckmann did not recall saying, "Who the fuck are you?" during the incident. PO Kreckmann stated that after § 87(2)(b)'s arrival, the situation was elevated from a conversation to an argument and all of them began yelling at him. After a few minutes of yelling, PO Kreckmann began arguing back with the civilians. He stated that he made a mistake by arguing back and did so because he became frustrated and emotional. PO Kreckmann stated that he told them "Listen. It's not my fault you guys live here. It's a shithole. They're killing each other and shooting each other. I have to stand here and try to keep people from getting killed." PO Kreckmann did not recall using the term "hood rat" or "bitch" at any point during the incident. PO Kreckmann did not recall any conversation about arresting any of the individuals, with the exception of informing § 87(2)(b) earlier in the incident that he could have been arrested for littering, and he never intended to arrest any of the civilians during the incident. PO Kreckmann did not recall if he used the word "dicks" at any point during the incident or if he ever said, "Good luck with your mouth kid, try to keep dicks out of it."

PO Lombardi denied hearing PO Kreckmann use profanity at any point during the incident and did not recall if PO Kreckmann ever told any of the civilians that he could lock them up. He stated that when § 87(2)(b) and § 87(2)(b) walked over to PO Kreckmann, PO

Kreckmann asked § 87(2)(b) “Who are you?” PO Lombardi noted that he was not sure how exactly PO Kreckmann phrased this question and how the civilians took it because after he asked it, everyone started “coming out of their face” and saying that PO Kreckmann was rude and disrespectful.

The video footage that § 87(2)(b) took shows § 87(2)(b) and § 87(2)(b) walking away from PO Kreckmann and PO Lombardi. PO Kreckmann viewed the video footage and identified himself and PO Lombardi. During the video, a voice can be heard saying, “Good luck with your mouth kid, try to keep dicks out of it.” There is a brief pause between these two statements during which a second voice interjects, “Oh shut the fuck up.” (BR 16) PO Kreckmann stated that he believed the voice that said “good luck with your mouth kid” sounded like his own voice. However, PO Kreckmann was unable determine if the voice that said, “try to keep dicks out of it” belonged to him or someone else. PO Kreckmann acknowledged that he was angry at this point in the incident, but stated he did not recall if he was angry enough to make that statement. After that statement is made, the video footage moves towards PO Kreckmann and § 87(2)(b) can be seen next to PO Kreckmann, who is visible in frame with PO Lombardi. A voice can be heard screaming “Fuck you!” Another voice then states, “Watch your mouth bitch.” (BR 17) The same voice that said “fuck you” can be heard continuously yelling and a voice says, “Listen to your mouth.” PO Kreckmann stated that he believed the voice that says “listen to your mouth” was his own, but was unable to determine whose voice stated, “Watch your mouth bitch.” PO Lombardi also viewed the video footage, but stated he was unable to recognize the voice which made either of the stated discourtesies.



2016-12-07_13-08-37.mp4



2016-12-07_13-12-57.mp4

Patrol Guide section 203-09 states that officers must be courteous and respectful. According to PD v Grossman, an officer was found to have committed misconduct when he threatened to arrest an individual without having the authority to do so (OATH Index No. 2382/00R) (BR 18).

§ 87(2)(g)
[REDACTED]

§ 87(2)(b), § 87(2)(g)

Allegation J –Force: Police Officer Derrick Kreckmann used physical force against § 87(2)(b)

§ 87(2)(b) stated that he approached PO Kreckmann so that he could get his badge number on video. § 87(2)(b) got within a foot of PO Kreckmann and PO Kreckmann then pushed him backwards. PO Kreckmann pushed him one time with one hand, open palm, on his chest. § 87(2)(b) stumbled backwards as a result of this.

According to § 87(2)(b) after PO Kreckmann made the “dick” comment, she walked toward him and began yelling and cursing, getting within two feet of PO Kreckmann. § 87(2)(b) came and got in the middle of them. PO Kreckmann pushed § 87(2)(b) on his right shoulder and told him to get out of his face. When PO Kreckmann did this, his hand also brushed § 87(2)(b)s right shoulder. Both § 87(2)(b) and she fell back a little bit as a result of this. § 87(2)(b) stated that she asked § 87(2)(b) to move forward and get PO Kreckmann’s badge on film. When § 87(2)(b) approached him, PO Kreckmann smacked him away using the back of his hand. § 87(2)(b) estimated that § 87(2)(b) got within an arm’s length of PO Kreckmann. § 87(2)(b) did not provide testimony regarding this portion of the incident.

PO Kreckmann stated that he initially observed § 87(2)(b) standing 10 feet away from him, but towards the end of the incident, he approached PO Kreckmann and PO Lombardi. § 87(2)(b) asked for his name and shield as he approached, which PO Kreckmann provided. § 87(2)(b) then walked very close to PO Kreckmann, so he pushed him backwards with an open palm while instructing him to step away. PO Kreckmann did not recall if he used one hand or two to push § 87(2)(b) but noted he pushed him with a minimal amount of force and § 87(2)(b) did not stumble as a result of the push.

By PO Lombardi’s account, § 87(2)(b) was originally standing a couple feet away from the group and then started walking around, getting within a foot of the officers and asking PO Lombardi for his name and shield. PO Lombardi did not recall if any officer ever tried to move

§ 87(2)(b) away, if either of them issued him any instructions, and he did not recall if PO Kreckmann ever pushed § 87(2)(b) away at any point.

Video footage of the incident initially begins several feet away from PO Kreckmann and is a steady shot. After the statement, “Good luck with your mouth kid, try to keep the dicks out of it” is made, the video gets progressively closer to PO Kreckmann and his arm can be seen extended outward, toward the camera. A voice then states, “Oh shit yo, don’t touch me.” (BR 19)



2016-12-07_13-10-34.mp4

According to Patrol Guide 221-01, officers may use force to ensure the safety of a life or when it is reasonable to place a person in custody or to prevent escape from custody.

§ 87(2)(b), § 87(2)(g)
[Redacted text block]

[Redacted text block]

Squad: 6

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

